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1           A.           So, the diagnosis was provided by a  
2 psychiatrist, a medical doctor. That's where I  
3 gleaned information. And my role is to explain if or  
4 how psychopathologies like antisocial personality  
5 disorder have been empirically related to propensity  
6 for false confession and they have.

7           Q.           In 1985, would the police officers who  
8 were interrogating Mr. Perrot had to have reason to  
9 know that he might be suffering from antisocial, I  
10 guess is suffering from the right -- it might be -- he  
11 might have antisocial personality disorder, is there a  
12 way that the police officers would have been expected  
13 to know that?

14          A.           I don't know.

15          Q.           Are you -- is it your opinion that if  
16 they did know that he had antisocial personality  
17 disorder that he should have been treated differently  
18 during the course of the interrogation?

19          A.           I believe that -- let me think about that  
20 for a moment. I don't really know much about how he  
21 was treated because there is no electronic recording  
22 of the interrogation, so all I have to go on is the  
23 officers' account of the interrogation and the  
24 suspect's account of the interrogation.

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1 Q. Okay. So, forget the word differently.  
2 Is there a specific criteria that you feel police  
3 officers in 1985 should have applied to their  
4 interrogation approach if they had known that Mr.  
5 Perrot suffered from antisocial personality disorder?

6 A. I mean, I believe that police officers in  
7 1985 and now should question suspects in a  
8 non-accusatorial approach that utilizes investigative  
9 interviewing techniques. That's our understanding of  
10 interrogation best practices.

11 Q. And you believe that was the standard in  
12 1985?

13 A. I don't know what you mean by the  
14 standard and I don't know specifically how -- what  
15 techniques officers used to question him because  
16 there's no recording.

17 Q. Okay. So, does any of the research that  
18 you cited in this section, does it predate 1985?

19 A. None of the specific citations I used as  
20 examples predate 1985, no.

21 Q. And do you have any citation in any  
22 cases, statutes, or regulatory guidance that requires  
23 police officers to take into account a diagnosis of  
24 antisocial personality disorder when interrogating

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1 someone?

2 A. No.

3 Q. Let's move to Trauma and life adversity  
4 which starts on Page 12 and continues to Page 13. Do  
5 you have that in front of you?

6 A. I do.

7 Q. And does any of that research predate  
8 1985?

9 A. None of the citations that I included  
10 predate 1985.

11 Q. And do you have any citations to any  
12 cases where courts have held that police departments  
13 should consider trauma and life adversity when  
14 interrogating suspects?

15 A. No.

16 Q. How would police officers have access to  
17 information that would determine whether someone's  
18 life events or past trauma was negatively impacting  
19 their ability to be interrogated?

20 A. I don't know what information police  
21 officers had in this case or routinely access.  
22 Sometimes, that information is available, for example,  
23 in the materials that I reviewed but I don't know the  
24 degree to which police seek information about suspects

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1 as part of their investigative process.

2 Q. Are you stating that that is a standard  
3 that they should be held to?

4 A. That's not for me to decide.

5 Q. Okay. Let's look at 14 to 16 which deals  
6 with intoxication and sleep deprivation.

7 ATTORNEY DESOUSA: And at this  
8 point, Nicole, it would be helpful if you could  
9 share Exhibit 2.

10 Q. (By Attorney deSousa) Dr. Cleary, you  
11 have not previously had an opportunity to review this,  
12 is that correct?

13 A. I don't believe so.

14 Q. Okay. So, it's not a short document.  
15 So, would you like to take a short break so that you  
16 can review it?

17 A. If you would like me to, I would be happy  
18 to.

19 Q. Yeah. I think that would be helpful.

20 ATTORNEY DESOUSA: Carla?

21 ATTORNEY AGBIRO: Yes.

22 ATTORNEY DESOUSA: I think it would  
23 probably be easier if you could just e-mail the  
24 doctor with the document rather than having to



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1 keep -- stay on Zoom and read it this way.

2 ATTORNEY AGBIRO: Okay. That's  
3 fine. Dr. Cleary, would that be easier for  
4 you?

5 THE WITNESS: Yes, I think so. Then  
6 I can scroll myself.

7 ATTORNEY AGBIRO: Okay. One second.

8 ATTORNEY DESOUSA: So, we'll go off  
9 the record for let's say ten minutes. And it's  
10 about -- we'll come back around -- well, why  
11 don't we take a fifteen-minute break? And then  
12 we'll try to go until 12:30 after that. All  
13 right? So, how about if we all come back at  
14 five after eleven? Is that okay?

15 ATTORNEY AGBIRO: That's fine.

16 (A recess was taken)

17 ATTORNEY DESOUSA: Back on the  
18 record.

19 Q. (By Attorney deSousa) So, doctor, I  
20 assume that you have had an opportunity to review that  
21 decision?

22 A. Yes.

23 Q. And, again, this is the first time you  
24 have had an opportunity to review that decision?

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1 A. Yes.

2 Q. And what did Judge Murphy decide relative  
3 to the effect of the purported intoxication on Mr.  
4 Perrot's waiver?

5 A. The judge ruled the waiver knowing,  
6 intelligent, and voluntary and found "that the  
7 defendant has exaggerated the quantity of beer and  
8 drugs he had consumed."

9 Q. And I believe your testimony is that it's  
10 -- that it's in fact the judge's determination that  
11 should control when deciding these issues, correct?

12 A. A judge rules on confession voluntariness  
13 and waiver validity.

14 Q. And that's what happened here, correct?

15 A. Yes.

16 Q. And on your citations on Pages 14 to 16,  
17 does any of that research relative to intoxication and  
18 sleep deprivation, did any of that research predate  
19 1985?

20 A. No.

21 Q. And do you have any citation to any cases  
22 where courts have held police departments to  
23 particular standards relative to intoxication and/or  
24 sleep deprivation?

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1 A. No.

2 Q. Whether you're aware of any court  
3 decisions or not, it's true, is it not, that Judge  
4 Murphy had an evidentiary hearing on those very issues  
5 amongst others, correct?

6 A. Yes.

7 Q. And he was present when the witnesses  
8 testified?

9 A. The judge?

10 Q. Yes.

11 A. I assume so.

12 Q. And he had an opportunity to evaluate the  
13 creditability of the witnesses, correct?

14 A. I assume so.

15 Q. And George Perrot himself took the stand  
16 at that time, isn't that also correct?

17 A. Yes.

18 Q. And he was aware -- and I'm sorry.  
19 Strike that.

20 And in 1986, people's memories of the  
21 events from 1985 would presumably be fresher than they  
22 would be in the 2017 to 2024 years, is that correct?

23 A. I think so, yes.

24 Q. And you read the motion to suppress

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1 transcripts, correct?

2 A. Yes.

3 Q. And you saw that counsel for Mr. Perrot  
4 argued that the confessions should have been stricken  
5 in part because of sleep deprivation, correct?

6 A. I believe so.

7 Q. And in part because of intoxication,  
8 correct?

9 A. Yes.

10 Q. And the judge who was charged with the  
11 responsibility of knowing and applying the law didn't  
12 find that to be true, correct?

13 A. Correct.

14 Q. So, now I would like to go to the next  
15 section of your report which starts on Page 16 and it  
16 runs 16 to 18 on Police presumptions of guilt and  
17 investigator bias. And my first question is that the  
18 citations that you make in that section, does any of  
19 that predate 1985?

20 A. No.

21 Q. And are you aware of any cases where  
22 courts have held -- that have held that police  
23 departments need to consider issues of police  
24 presumptions of guilt and/or investigatory bias during

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1 interrogations of suspects?

2 A. No.

3 Q. Is it your opinion that the Springfield  
4 Police Department's questioning of George Perrot on  
5 December 7th, 1985 was influenced by their presumption  
6 of his guilt and/or investigatory basis?

7 A. Yes.

8 Q. And what facts in the records do you base  
9 that opinion upon?

10 A. The facts of the record that I base that  
11 opinion upon were that they were -- the officers were  
12 looking at Mr. Perrot for these crimes even though he  
13 denied that he was involved in the sexual assaults  
14 while readily admitting guilt for others. In fact, it  
15 was Detective -- excuse me. I forget his rank.  
16 Officer Jarvis testified that he told another  
17 detective, I was looking at him for the rape. And,  
18 so, in my opinion, they entered the interrogation  
19 looking to elicit a confession for rape from Mr.  
20 Perrot.

21 Q. And you have reviewed, have you not, the  
22 statement that George Perrot gave relative to the Mae  
23 Marchand rape and break-in, the first one where he  
24 described being at the Big E and he came in because

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1 the grandson said -- the grandson believed that he and  
2 his friends were the ones who had broken in and  
3 assaulted his mom -- his grandma?

4 A. I recall the specific content. I don't  
5 remember which statement it was included in.

6 Q. So, I think if you look at your  
7 statements from the statement from September of  
8 1985 --

9 A. So, there's the statement from Perrot to  
10 Thomas Jarvis on December --

11 Q. Go ahead.

12 A. December 7th, 1985 at 12:40.

13 Q. Yes.

14 A. Then there's a second statement, same  
15 date, no time that I believe was prepared by Detective  
16 Jarvis and signed by Mr. Perrot. Is that what you  
17 mean by the first and second statements?

18 Q. No. I mean the statement -- if you go  
19 back to your list, it's Number 6.

20 A. Would you like me to pull --

21 Q. No. No. I just want to make sure we're  
22 both talking about the same thing.

23 A. Okay. Okay.

24 Q. So, do you see on your list --

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1 A. Yes.

2 Q. -- it's number 6, Statement from George  
3 Perrot regarding call from MM, which is Mae Marchand's  
4 grandson, and it's dated September 21st, 1985?

5 A. Yes.

6 Q. And do you recall that statement?

7 A. Vaguely, yes.

8 Q. Okay. And, so, the night of that  
9 statement, George Perrot voluntarily went to the  
10 Springfield Police Department, correct?

11 A. I believe so, yes.

12 Q. And he said in essence, I was contacted  
13 by this woman's grandson and he is saying that he  
14 thinks I raped, broke in and raped his grandmother,  
15 correct?

16 A. Yes.

17 Q. And I didn't and I'm going to tell you  
18 all the things I did that night that were not breaking  
19 in and raping his grandmother, correct?

20 A. I believe so, yes.

21 Q. And he gives a pretty detailed statement  
22 about I went out with my friends, we drank, we did  
23 drugs, we climbed over fences to go in and out of a  
24 local fair. My girlfriend was also with me but I did

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1 all these other things but I didn't break in and rape  
2 this old lady, correct?

3 A. Right.

4 Q. Does that refresh your recollection?

5 A. Yes.

6 Q. But he tells the police that he and his  
7 friends did know this woman because they had been  
8 painting her garage, do you remember that?

9 A. Yes.

10 Q. Okay. And is it likely that police  
11 officers getting this information might discern that  
12 perhaps this was the perpetrator of the break-in and  
13 rape of Mae Marchand?

14 A. It is likely that that contributed to  
15 their initial identification of Mr. Perrot. The  
16 problem with that --

17 Q. And then -- go ahead. I'm sorry. I  
18 didn't mean to cut you off.

19 A. The problem occurs when investigators  
20 adhere to that assumption of guilt and even  
21 double-down on it even in the face of information that  
22 would suggest otherwise, like a denial for example.

23 Q. So, are you saying the standard is that  
24 if a suspect denies the crime, the interrogation



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1 should stop?

2 A. No.

3 Q. Are you saying that a suspect denying a  
4 crime should be conclusively presumed to be true?

5 A. No.

6 Q. And the statement at issue doesn't  
7 include an admission of the rapes, isn't that true?

8 A. Yes.

9 Q. So, to the extent that Officer Jarvis  
10 went in with an investigatory basis that Mr. Perrot  
11 raped both of those women, that didn't result in a  
12 false confession of those rapes, did it?

13 A. I'm not making determinations about  
14 whether confessions are false or true. I am sharing  
15 the science about factors that predict likelihood of  
16 false confessions.

17 Q. He didn't confess to the rapes at all, so  
18 whether it was false or true, whatever bias Jarvis had  
19 or didn't have, it didn't result in a confession at  
20 all, isn't that true?

21 A. He signed a statement admitting to  
22 entering the houses where women reported being  
23 sexually assaulted and he was convicted of sexual  
24 assault.

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1 Q. But he specifically denied the sexual  
2 assaults?

3 A. Yes.

4 Q. So, the bias didn't result in a  
5 confession to the events that he was ultimately  
6 convicted of, being the sexual assault of Mary Prekop,  
7 correct?

8 A. Mr. Perrot did not confess to the sexual  
9 assaults.

10 Q. And he was never convicted of sexually  
11 assaulting Emily Lichwala, was he?

12 A. I get the two cases, multiple cases  
13 confused, so I can't answer that specifically.

14 Q. How many women do you believe in 1987  
15 that Mr. Perrot was convicted of raping?

16 A. There was involved in this voluminous  
17 record Mary Prekop, Emily Lichwala, and Mae Marchand.  
18 These were women who reported sexual assaults around  
19 that time and police suspected Mr. Perrot of those at  
20 various points in time.

21 Q. How many was he convicted of?

22 A. I don't recall the specific trial  
23 determinations.

24 Q. Which of the investigators on December

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1 7th, 1985 in your opinion were influenced by a  
2 presumption of George Perrot's guilt and/or  
3 investigatory bias?

4 A. The people who questioned him were --  
5 make sure I get their names correct -- Sergeant Kelly  
6 and Detective Jarvis questioned him repeatedly about  
7 sexual assaults.

8 Q. So, when you say repeatedly, how many  
9 times do you believe he was questioned about those?

10 A. Multiple times in and out of periods of  
11 isolation.

12 Q. By isolation, you mean he was either in  
13 his cell or in an office with nobody asking him  
14 questions, is that what you mean?

15 A. Yes.

16 Q. He wasn't put into an isolation unit?

17 A. I mean, he was in state custody in a room  
18 by himself.

19 Q. And you'll agree with me, will you not,  
20 that he testified that the first of the three times he  
21 was questioned, it was not about Emily Lichwala or  
22 Mary Prekop's assaults, correct?

23 A. I believe that's correct. I forget the  
24 specific order of questioning. There were multiple

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1     bouts.

2           Q.       And at least one point, he was questioned  
3     about two unsolved murders, correct?

4           A.       I don't recall that specifically.

5           Q.       Okay. So, I think you have already  
6     testified to this but going back to the September  
7     1985, Mae Marchand, lady they painted her house -- her  
8     garage, you didn't read any of the other statements  
9     that were taken at that time from other witnesses, his  
10    girlfriend, Bob Timmerman, I can't remember Atkins'  
11    first name right now? You didn't read any of those  
12    statements?

13          A.       I don't believe so. I would have to look  
14    at my folder again.

15          Q.       And are you aware based on the records  
16    that you have reviewed that at least one of the  
17    investigators from the September 1985 night felt that  
18    Templeman or Timmerman was more likely to be the  
19    perpetrator than George Perrot?

20          A.       I was not aware.

21          Q.       And do you know whether either of those  
22    officers were involved in the December 1985  
23    interrogation of Mr. Perrot?

24          A.       I don't know.

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1 Q. Do you know whether Mr. Perrot was  
2 questioned about whether or not Mr. Timmerman was the  
3 perpetrator of the assaults?

4 A. I don't recall.

5 Q. In your opinion, do investigators have a  
6 duty to recuse themselves from an investigator once  
7 they make a determination in their own mind of who the  
8 lead suspect is?

9 A. No.

10 Q. What do you -- what is your opinion on  
11 the standard that officers should be following if they  
12 make a determination in their own mind of who the lead  
13 suspect is?

14 A. My opinion is that investigators are  
15 obligated to seek corroboration of information that  
16 they obtain from suspects.

17 Q. And in this case, do you feel that there  
18 was not any corroboration?

19 A. There was DNA evidence that was obtained  
20 from the scene. There were gloves that were in  
21 question that one of the defendants disagreed with  
22 police about the source of the gloves.

23 Q. Do you know whether or not that evidence  
24 was presented to a jury?

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1 A. I don't recall specifically.

2 Q. If there is a piece of evidence and one  
3 person says that the evidence was this and another  
4 person says that's not what the evidence shows, should  
5 police be stopped from presenting that evidence to a  
6 jury?

7 A. It's not my decision what information  
8 gets presented to a jury.

9 Q. Okay. You have read the trial  
10 transcripts, correct?

11 A. I read them back in October of last year.

12 Q. I know that and, you know, for whatever  
13 reason, there was no preparation for today's  
14 deposition, but in the trial transcript, you read the  
15 testimony of the officers who responded on November  
16 30th, 1985 to Mary Prekop's house after she had been  
17 violently sexually assaulted, correct?

18 A. I read the trial transcript in  
19 preparation for my report.

20 Q. And those officers testified that one of  
21 the pieces of evidence that they took from the scene  
22 was ladies' gloves, correct?

23 A. I believe so. Again, there is a large  
24 volume of discovery that I did not re-review in

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1 totality in preparation for a deposition about my  
2 report.

3 Q. And the officer -- one of the officers  
4 that responded to the scene testified that George  
5 Perrot's sister, Nancy Westcott, said, I have a pair  
6 of gloves that look like what you're describing. And  
7 he said, Can you go get them? And she said, Oh, I  
8 went to get them where I knew they were and they're  
9 not there anymore. Does that refresh your  
10 recollection about the testimony that the officer  
11 offered about the gloves?

12 A. I don't recall specifically what the  
13 officer testified about gloves.

14 Q. Do you recall that Nancy Westcott  
15 testified that she did not say that, that she did not  
16 own a pair of gloves like that and she never told the  
17 officer that and that she might have said, I think  
18 George's girlfriend might have had a pair of gloves  
19 like that? Does that refresh your recollection about  
20 Nancy Westcott's testimony?

21 A. That sounds vaguely familiar but I don't  
22 recall specific details of every person who testified  
23 in multiple trials.

24 Q. And if that testimony was given in front

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1 of a jury and the jury said, I don't believe Nancy  
2 Westcott, I believe the police officer and I therefore  
3 believe that those gloves were Nancy Westcott's that  
4 were found in the home of Mary Prekop after she had  
5 been violently raped, that was their job, right, to  
6 make determinations of fact within the confines of a  
7 jury, correct?

8 A. Yes.

9 Q. So, in what way did the Springfield  
10 Police Department misuse in your opinion the evidence  
11 about let's say the gloves?

12 A. I believe that my report is being  
13 misconstrued. My role is to share with the court the  
14 science about what we have learned about the  
15 investigative process and how errors in the  
16 investigative process can capitalize on psychological  
17 biases and result in particular outcomes. There is  
18 extensive research on confirmation bias or what we  
19 call investigator bias in an investigative context  
20 around tunnel vision and how it colors legal actor's  
21 decision-making, not just police but also prosecutors  
22 down the road. So, my report shares that science  
23 along with science about other risk factors that are  
24 related to false and unreliable confession statements.



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1 Q. You understand your opinion is being  
2 offered in a case where none of those things are at  
3 issue, correct? This case is about George Perrot  
4 saying that the actions of the Springfield Police  
5 Department violated his civil rights. That's what  
6 this case is about, doctor. I don't know what you  
7 thought the case was about but that's what this case  
8 is about. So, I'm trying to put into context the  
9 usefulness of research that postdates these events by  
10 several decades to the case that we're currently  
11 involved with.

12 A. That I believe I can answer for you.  
13 Just because the research postdates the events doesn't  
14 mean that those events weren't a function of what we  
15 now know. I mean, take a medical analogy for example.  
16 We now know how blood moves from the -- through the  
17 brain using functional magnetic resonance imaging. We  
18 didn't have fMRI 100 years ago but that doesn't mean  
19 the blood flow doesn't work through the brain in the  
20 same way. The research is recent but explicates the  
21 psychological components of the process, of coercion,  
22 of Miranda rights comprehension or non-comprehension,  
23 whatever the relevant factor is. My job is to  
24 summarize and share the research and apply it to the

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1 case facts that are available to me.

2 Q. I understand that, doctor, but your  
3 analogy doesn't answer my question. If we were to  
4 take modern medical science and apply it to a doctor  
5 in the 1920s who was treating people without  
6 antibiotics and we would now say, of course they  
7 should have been given antibiotics with that level of  
8 an infection, we can't use that research now to go  
9 back and say the doctor in the 1920s was guilty of  
10 malpractice, can we?

11 A. I'm not making determinations about the  
12 officers. I'm sharing the science and the -- Mr.  
13 Perrot's legal claims are what they are. I'm not a  
14 civil attorney.

15 Q. Okay. Let's go to the next section which  
16 is Confession contamination and scripting. You  
17 reference in the beginning of that section, which it  
18 starts on Page 18 to 19, a technique called the Reid  
19 Technique. What is that?

20 A. The Reid Technique is a method of  
21 criminal investigation developed, proposed, and  
22 copyrighted by a company called Reid and Associates.

23 Q. When?

24 A. The Reid Technique originally has been

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1 around for maybe fifty something years, the 19 --

2 Q. It wasn't involved in 1985?

3 A. The Reid Technique has been around since  
4 before 1985, much before.

5 Q. What is it?

6 A. It is a nine-step process for  
7 interrogating suspects of a crime.

8 Q. And when was it developed?

9 A. In the 60s maybe.

10 Q. And are you aware as you sit here today  
11 of any caselaw that requires the Reid Technique be  
12 followed in interrogation of suspects at any time?

13 A. No. It's an interrogation training  
14 approach, one of many.

15 Q. It's not the only way to interrogate  
16 suspects then?

17 A. No.

18 Q. And it's not required by any caselaw?

19 A. No.

20 Q. And it's not required by any regulatory  
21 body of police officers that you're aware of?

22 A. No.

23 Q. And it's not -- and you know that it was  
24 or was not followed in the George Perrot case?

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1 A. I can't speak to that specifically.

2 Q. Okay. What is confession scripting?

3 A. Confession scripting is when officers  
4 intentionally or unintentionally lead suspects through  
5 a recounting of events through a series of leading  
6 and/or closed-ended questions that elicit a specific  
7 narrative that occurred. Scripting can be sort of  
8 general or gentle if you will or in the case where a  
9 confession statement is literally created and written  
10 by an investigator, it can be literally scripted.

11 Q. What is confession contamination?

12 A. Contamination is when details about the  
13 crime that are in theory known only to the true  
14 perpetrator and police become communicated to suspects  
15 through the process of questioning most often,  
16 although it can come from other sources like  
17 neighborhood gossip or news, et cetera.

18 Q. And the scholarly research that you have  
19 cited on Pages 18 to 19, does any of that predate  
20 1985?

21 A. No.

22 Q. You describe the confession as having a  
23 relative lack of details?

24 A. Yes.

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1 Q. And by the confession, I'm assuming that  
2 we're talking only about the confession relative to  
3 the break-ins at Emily Lichwala and Mary Prekop's  
4 homes?

5 A. I'm talking about the written -- the two  
6 written or typed, excuse me, typed statements.

7 Q. Both statements about the McNabb and the  
8 Denny's? There's two statements, right? One has to  
9 do with the events of December 7th and one has to do  
10 with November 30th but doesn't include the rapes, it  
11 just has the break-ins, correct?

12 A. Yes.

13 Q. And, so, are you saying both of those  
14 statements suffered from a relative lack of detail?

15 A. Can you -- if would like me to elaborate  
16 on --

17 Q. Sure. I'll find it.

18 A. Thank you. Direct me to the location.

19 Q. It starts on the bottom of 18 and  
20 continues onto 19, In the present case.

21 A. Yes. Thank you. Can you repeat your  
22 question, please?

23 Q. Are you saying -- so, first of all, can  
24 we agree that you're referring here to the statements

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1 relative to the November 30th, 1985 events, not the  
2 December 7th events, correct?

3 A. Yes.

4 Q. And you're saying it's remarkably sparse?

5 A. Yes.

6 Q. Okay. And what -- upon what did you base  
7 that?

8 A. My experience reviewing very many  
9 interrogations and confessions.

10 Q. I'm sorry. That was a really badly  
11 worded question. What I meant was, specifically in  
12 what ways did it seem sparse to you?

13 A. So, there was not any detail about the --  
14 excuse me. There was not very much detail about the  
15 events leading up to the crime, not a lot of detail  
16 about the motive for the crime, the events that  
17 occurred after the crime. Each of those things were  
18 mentioned in a sentence or two but in totality, the  
19 statement is, you know, about a double-space typed  
20 page which in my opinion is relatively sparse.

21 Q. Okay. So, you state, It contains the  
22 crime locations, correct?

23 A. Yes.

24 Q. The method of entry?

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1 A. Yes.

2 Q. And some additional details and you use  
3 as examples the wool gloves and a barking dog?

4 A. Yes.

5 Q. Correct?

6 A. Yes.

7 Q. Then before the crime, he described  
8 travelling to Vermont, drinking, taking drugs,  
9 correct?

10 A. Yes.

11 Q. And that seems not detailed to you?

12 A. I have reviewed confession statements  
13 that are pages and pages long.

14 Q. And have you reviewed some that have been  
15 less long than that?

16 A. Yes.

17 Q. So, this isn't just, I did it, correct?  
18 There's more details than that, isn't there?

19 A. There is more details than, I did it,  
20 yes.

21 Q. And, well, at least about the use of  
22 drugs and where he had been and all of that, that  
23 seemed pretty detailed, correct?

24 A. I mean, I stand by my statement in the

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1 report that to me, this written confession is sparse  
2 in my assessment of sparse.

3 Q. When you compare the statement that  
4 George Perrot gave in September of 1985, which he  
5 voluntarily showed up and gave, correct?

6 A. Yes.

7 Q. And the statement he gave about the  
8 events of December 7th, 1985 and the statement that he  
9 gave about the events on November 30th, 1985, did you  
10 see any consistencies between those statements?

11 A. I would have to look at them side by side  
12 again.

13 Q. Well, do you recall a lot of detail from  
14 Mr. Perrot about the drugs he took?

15 A. I would have to look at them side by side  
16 again.

17 Q. Do you recall any detail about his  
18 recreational activities in the evenings in question  
19 leading up to the break-ins?

20 A. I would have to re-review the statements  
21 side by side.

22 Q. Okay. And isn't there an argument to be  
23 made that the relative lack of details in the  
24 confessions suggest that it was not scripted by the



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1 police but rather was what the perpetrator gave?

2 A. Not necessarily.

3 Q. How about the fact that he doesn't state  
4 -- doesn't admit to the sexual assaults? Doesn't that  
5 support a conclusion that the confessions were not  
6 scripted?

7 A. Not necessarily.

8 Q. So, wouldn't a police officer be more  
9 interested in scripting a confession that confessed to  
10 the crimes they were investigating?

11 A. You're asking me to speak to the police  
12 officers' motives if I'm understanding you correctly  
13 and I don't think I can answer that.

14 Q. So, don't you think by suggesting that  
15 the confession was a product of contamination and/or  
16 scripting that you are speaking to the police  
17 officers' motives?

18 A. I am providing context based on the  
19 research on contamination, confession contamination  
20 and scripting that -- that could have occurred in this  
21 case.

22 Q. And you state that more probably than not  
23 it did occur in this case?

24 A. Can you repeat that, please?

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1 Q. Can you state that it's your opinion that  
2 it more probably than not did occur in this case?

3 A. Do you mean that officers scripted the  
4 confession statement?

5 Q. Yes.

6 A. So, I reviewed the confession statement,  
7 which is typed here, and I stated in my report if this  
8 is accurate.

9 Q. If what is accurate?

10 A. If -- so, Mr. Perrot alleged that police  
11 generated the details about the home break-ins in  
12 Covell Street and Malibu.

13 Q. That's not what I'm asking you though. I  
14 mean, obviously if you accept his versions of events,  
15 then -- I'm asking you whether reviewing the document  
16 and the information in front of you, you can state  
17 that it's your opinion that it is more probable than  
18 not that it was as a result of confession  
19 contamination and/or scripting? Leaving aside  
20 credibility, determinations about what George Perrot  
21 says or what the police say, based on the document  
22 that you're reviewing, can you state that?

23 A. Can I? No.

24 Q. You also state that one of the problems

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1 with confessions that are as a result of contamination  
2 and/or scripting is that ordinarily, the police stop  
3 investigating crimes once they get a confession, am I  
4 accurately recounting what you stated?

5 A. Often times.

6 Q. Did that happen here?

7 A. I would have to re-review the police  
8 materials to specifically answer which investigative  
9 actions occurred before the interrogation and which  
10 occurred after.

11 Q. Well, are you aware that after Mr.  
12 Perrot's conviction, they were actively pursuing other  
13 suspects that may have had a role in these break-ins  
14 and assaults?

15 A. I'm not familiar with that detail.

16 Q. Okay. So, if that's true, would that  
17 undermine determination that this was a scripted  
18 confession?

19 A. I'm not making a determination that this  
20 is a scripted confession.

21 Q. Would it weigh against it having been a  
22 scripted confession?

23 A. I think information about when and how  
24 the police conduct investigations to elicit

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1 information that either confirms a confession  
2 statement or discounts it is relevant and important.

3 Q. I don't understand your answer. I don't  
4 understand how that answered my question. Could you  
5 repeat it? Maybe I missed something.

6 A. Well -- and perhaps I misunderstood your  
7 question. If so, I apologize. So, you're asking me  
8 is it -- I think you were asking me, would it be  
9 important to know if the police continued their  
10 investigation after the conviction and I would say  
11 yes, that's good information to know.

12 Q. Okay. Now I'm going to switch gears to  
13 after George Perrot's release in 2017. And I'm going  
14 to ask that you review, because I believe you stated  
15 you had not yet been able to, the nol pros that was  
16 issued.

17 ATTORNEY DESOUSA: And that's  
18 Exhibit 1, Nicole, if you could share that.  
19 This is a four-page document. Dr. Cleary,  
20 would you like us to go off record for maybe  
21 five minutes so you can read it without us all  
22 watching you read it?

23 THE WITNESS: Sure. Thank you.

24 ATTORNEY DESOUSA: Sure. So, we'll

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1 go off record for five minutes.

2 (A recess was taken)

3 ATTORNEY DESOUSA: Back on the  
4 record.

5 Q. (By Attorney deSousa) So, Dr. Cleary,  
6 you have had a chance to review this document?

7 A. Yes.

8 Q. And, so, you understand that in this  
9 document, the District Attorney's office explained its  
10 reasoning for not retrying Mr. Perrot?

11 A. Yes.

12 Q. And they reference the forensic testing  
13 that has now been deemed unreliable, correct?

14 A. Yes.

15 Q. They reference the fact that he had  
16 already at that point in time served longer than he  
17 would have under our current sentencing guidelines --

18 A. Yes.

19 Q. -- were he convicted today and that he  
20 had not violated the conditions of his parole,  
21 correct?

22 A. Yes.

23 Q. It had nothing to do with any confession,  
24 issues on confession, correct?

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1 ATTORNEY AGBIRO: Objection.

2 Objection to hearsay. Everything on here is  
3 hearsay.

4 ATTORNEY DESOUSA: I'm asking her  
5 what she reviewed but your objection is on the  
6 record.

7 Q. (By Attorney deSousa) Dr. Cleary, did  
8 you understand my question?

9 A. I believe so. The document does not  
10 reference a confession.

11 Q. Are you aware of George Perrot's  
12 activities since 2017?

13 A. Not particularly other than the  
14 activities in prison for which he earned a  
15 certificate. That was part of the materials I  
16 reviewed.

17 Q. I'm sorry. I meant to say since 2017.

18 A. I'm sorry. No, I'm not familiar.

19 Q. And, so, I take it you're not aware that  
20 he has been arrested multiple times?

21 A. No.

22 Q. And you're not aware that he has on three  
23 separate occasions been accused of violent attacks on  
24 women?

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1 A. No.

2 Q. If he has had repeated accusations and  
3 confessions to attacks on women, would that influence  
4 your opinions in this case in any way?

5 A. Not necessarily.

6 ATTORNEY DESOUSA: That's all that I  
7 have. I'm sure maybe some of the other defense  
8 attorneys might want to or maybe not. Carole,  
9 are you talking? Because you're on mute.

10 ATTORNEY LYNCH: I have a few  
11 questions unless somebody else wants to go  
12 first.

13 ATTORNEY AUSTIN: Go ahead, Carole.

14 ATTORNEY LYNCH: Okay.

15

16 EXAMINATION BY ATTORNEY LYNCH:

17 Q. Dr. Cleary, I represent Richard Kane who  
18 is named as a defendant in this case. Did you review  
19 any documents in preparation for your deposition  
20 today?

21 A. I reviewed my report in detail.

22 Q. Okay. Now, do you know Craig Miller?

23 A. No.

24 Q. So, you have never met him or spoken to

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1 him or communicated with him in any way?

2 A. I don't believe I know anyone by that  
3 name.

4 Q. Okay. Do you know anything about his  
5 reputation at all?

6 A. No.

7 Q. Okay. So, is it fair to say that you are  
8 not aware that he has given an opinion in this case?

9 A. No. I don't know him.

10 Q. Okay. So, you have not read his report?

11 A. No. No.

12 Q. Now, in the list of appearances that we  
13 were given by Mr. Perrot's counsel, we were provided  
14 with a list that states your appearances as an expert  
15 witness at trial or deposition. Is that something  
16 that you prepared? It has ten cases.

17 A. I'm sorry. Are you asking about a  
18 document that lists my testimony at trial?

19 Q. Yes.

20 A. Yes. The record of times that I have  
21 appeared in court, that's correct, I have prepared  
22 that.

23 Q. Okay. And actually it looks like it was  
24 last updated on November 1, 2023. Is that accurate?



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1           A.       Let's see, are you asking me if I have  
2 testified since then?

3           Q.       No. I'm talking about the list itself.

4           A.       Yes, it was accurate at the time of the  
5 -- it was dated at the top.

6           Q.       Okay. One of the cases that you listed  
7 is Simmers versus King County. Do you recall that  
8 case?

9           A.       Yes.

10          Q.       Okay. Who were you hired by on that  
11 case?

12          A.       Mr. Simmers' attorney.

13          Q.       Okay. And who was that?

14          A.       His name is David Owens.

15          Q.       It wasn't Loevy and Loevy?

16          A.       Mr. Owens contacted me. I'm actually  
17 unsure of his affiliation. I think has multiple, for  
18 example, like a law school at the University of  
19 Washington. I'm not certain who he is affiliated  
20 with.

21          Q.       Okay. Because I believe your testimony  
22 earlier was that you did not think you had worked with  
23 Loevy and Loevy before?

24          A.       Actually, now that you say that, thank

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1 you for reminding me, there was a case that I provided  
2 consultation on, not the Simmers case but an  
3 additional case that was included -- decided before I  
4 provided a report. That was from Loevy and Loevy.

5 Q. And what was the name of that case?

6 A. The individuals' names, there were two  
7 individuals, their names were Cory Batchelor and Kevin  
8 Bailey I believe. I communicated with their  
9 attorneys. I reviewed the case and materials and  
10 consulted with counsel but did not --

11 ATTORNEY AGBIRO: Objection.

12 Objection to any answer that is going to  
13 infringe on any work product privilege.  
14 Consultation would include that.

15 THE WITNESS: I did not provide a  
16 report in that case.

17 Q. (By Attorney Lynch) That case is not  
18 listed on this document. You said it was called Cory  
19 Batchelor and Kevin Bailey were the plaintiffs?

20 A. Yes. And if you're referring to the  
21 document of mine that I think you're referring to,  
22 that is a list of cases in which I have actually  
23 testified.

24 Q. Okay. Just briefly, with regard to this

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1 Cory Batchelor and Kevin Bailey case, what were they  
2 accused of?

3 A. It was a disputed confession case.

4 ATTORNEY AGBIRO: Objection. I'm  
5 going to object again because if there was no  
6 type of report done, then this is all work  
7 product. It's not discoverable.

8 ATTORNEY LYNCH: How is it not  
9 discoverable?

10 ATTORNEY AGBIRO: Because there was  
11 no report done. If an attorney reached out to  
12 her to ask if she's going to be able to work on  
13 the case but didn't actually retain her, that's  
14 work product. That's under Rule 26. That's  
15 not discoverable. So, no, I'm going to direct  
16 her not to answer.

17 Q. (By Attorney Lynch) Did that case have  
18 to do with someone that you would say was a juvenile  
19 or a youth?

20 ATTORNEY AGBIRO: I'm going to  
21 object again. Any answer that requires you to  
22 call on any knowledge, call from any type of  
23 attorney consultation is not discoverable.  
24 It's covered by attorney client, attorney work

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1 product privilege.

2 Q. (By Attorney Lynch) Do you have any  
3 information about that case other than what you  
4 received from Loevy and Loevy?

5 A. I'm not sure what you mean by  
6 information. I'm not sure how to answer that.

7 Q. Well, do you know anything about that  
8 case other than what you received from Loevy and  
9 Loevy?

10 A. I reviewed case materials but I did not  
11 issue a report.

12 Q. In terms of the case materials that you  
13 reviewed, do you remember if it had to do with a youth  
14 or, you know, someone you considered to be juvenile?

15 ATTORNEY AGBIRO: And I'm going to  
16 object to the extent that that case material  
17 was given to you by an attorney, that's work  
18 product.

19 Q. (By Attorney Lynch) So, the question is,  
20 did you review any materials that were given to you  
21 other than from the attorney?

22 A. No.

23 Q. Now, with respect to this Simmers versus  
24 King County case, do you remember what that case is

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1 about?

2 A. It was a disputed confession case.

3 Q. And what were you asked to do in that  
4 case?

5 A. I was asked to review materials and draft  
6 a report explaining the social science related to the  
7 factors that I identified and apply them to the case.

8 Q. Do you remember what the -- that was a  
9 civil case, correct?

10 A. Yes.

11 Q. What do you recall about the plaintiff in  
12 that case?

13 A. I recall he was a young man, maybe  
14 fifteen or sixteen years old at the time of the crime.  
15 There was a murder, a stabbing of an individual on a  
16 trail in the State of Wisconsin and Mr. Simmers was  
17 interrogated by police about the -- that stabbing  
18 attack and in an exaggerated fashion, he confessed to  
19 stabbing an individual who was hiking on the trail.

20 Q. I'm sorry. Did you say exaggerated  
21 fashion?

22 A. Yeah. So, in one case -- so, for  
23 example, in the course of this interrogation, this  
24 young person purported to be like a gang banger and

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1 confessed -- said that he had killed something like  
2 thirteen other individuals and he provided a lot of  
3 details about how, you know, these -- stabbing  
4 occurred. There was a lot of braggadocio in his  
5 communication with investigators if I recall  
6 correctly.

7 Q. Okay. And what opinion did you -- what  
8 opinion or opinions did you provide in that case?

9 A. My opinion was, you know, here are the  
10 risk factors for false confessions that are  
11 empirically demonstrated that I see as present in this  
12 case. I don't remember which specific factors were  
13 relevant to that particular case but it would be in my  
14 report.

15 Q. Well, do you remember if you found that  
16 the same risk factors were present in the Simmers case  
17 as you're saying were present in the Perrot case?

18 A. Several of them would have been the same  
19 because Mr. Simmers was I believe fifteen or sixteen  
20 but there were also different risk factors involved in  
21 that case.

22 Q. Do you recall which ones you thought were  
23 the same?

24 A. I would have to look at the report side

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1 by side.

2 Q. Do you remember which ones you thought  
3 were different?

4 A. I would have to look at the report side  
5 by side again. I'm sorry.

6 Q. And there is a date provided there on  
7 your list that says 1/18/23. Is that the date of your  
8 deposition?

9 A. Yes.

10 Q. Do you remember who the attorney or  
11 attorneys were that were representing Mr. Simmers in  
12 that case at the time of your deposition?

13 A. David Owens.

14 Q. No one from Loevy and Loevy?

15 A. He was the only attorney present that I  
16 recall on behalf of Mr. Simmons, Simmers.

17 Q. And are you saying that Attorney Owens is  
18 not a member of the law firm Loevy and Loevy?

19 A. Maybe he is. I don't -- I don't know who  
20 he works for. I don't specifically recall. Maybe --

21 Q. Do you -- I'm sorry.

22 A. I mean, I don't -- I don't know who he  
23 works for. Maybe it's Loevy and Loevy. I don't  
24 really understand the scope of their organization I

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1 guess.

2 Q. Okay. Well, for purposes of  
3 clarification, with regard to the Simmers case, do you  
4 recall Loevy and Loevy being involved in any way in  
5 terms of providing you with information, paying your  
6 bills, you know, anything like that?

7 A. So, I mean, the information that I  
8 received came from Mr. Owens. It's possible that -- I  
9 mean, I'm gathering that Mr. Owens is an attorney  
10 associated with Loevy and Loevy. If that's true, then  
11 maybe I just misunderstood at the time. It's possible  
12 that they paid the invoice. I just don't specifically  
13 recall. I just remember working with Mr. Owens.

14 Q. But at this point, do you remember  
15 receiving any e-mails that came from the firm Loevy  
16 and Loevy or receiving any correspondence with their  
17 letterhead on it?

18 A. Maybe. I just don't -- I just remember  
19 Mr. Owens.

20 Q. Do you recall if you used the same  
21 research for your opinions in the Perrot case that you  
22 used in the Simmers case?

23 A. So, the science is the science and for,  
24 you know, relevant risk factors such as adolescence



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1 and developmental immaturity for example, the  
2 scientific basis for the relevance of adolescent  
3 development in that case is the same scientific basis  
4 as the relevance for adolescent development in this  
5 case. So, in that sense, yes, some of the science is  
6 the same but most likely, there were different  
7 additional risk factors that were present in one case  
8 and not the other in which case the empirical basis  
9 for that would be different as well.

10 Q. And do you know what the outcome is or  
11 was of that case?

12 A. I haven't heard anything since the  
13 deposition.

14 Q. So, you don't know if it's still ongoing  
15 or it has been resolved somehow?

16 A. I don't know.

17 Q. Do you remember any details about the  
18 police interrogation that occurred of Mr. Simmers?

19 A. I remember that only the final confession  
20 statement was electronically recorded and not the  
21 interrogation that preceded it.

22 Q. Do you recall any details as to how he  
23 was interrogated that led you to believe that he made  
24 a false confession?

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1           A.       Well, I definitely didn't opine that he  
2       made a false confession and --

3           Q.       I'm sorry. I didn't hear what you just  
4       said.

5           A.       I said, I did not opine that he -- that  
6       Mr. Simmers made a false confession because I never  
7       speak to a confession as being true or false. As for  
8       the interrogation techniques that were used, I  
9       honestly don't remember the specifics. I have  
10      reviewed a lot of cases but I would have summarized  
11      them in my report.

12          Q.       Do you know when Mr. Perrot stated for  
13      the first time that he did not confess to the break-in  
14      at Emily Lichwala's house and Mary Prekop's house?

15          A.       I don't remember the specific timeline of  
16      the recantations.

17          Q.       By the way, did you ever have any contact  
18      yourself with Mr. Perrot whether in person, via  
19      e-mail, by phone, anything like that?

20          A.       No.

21          Q.       If you can just bear with me for a  
22      second, I'm just looking at something in your report.  
23      You stated on Page 9 in your report that, Youth are  
24      also socialized to comply with authority figures,

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1 especially legal authority figures. Do you recall --

2 A. Yes.

3 Q. -- that statement?

4 A. Yes.

5 Q. Okay. Did you think that based on the  
6 information that you reviewed that Mr. Perrot always  
7 complied with authority figures prior to his arrest in  
8 1985?

9 A. So, the evidence that was -- the case  
10 material that was available to me suggested sometimes  
11 yes and sometimes no.

12 Q. And what things did he not comply with?

13 A. Well, he had an arrest record, which is  
14 an indication of law violation, and he ran -- he  
15 testified, as did police, that he ran from police when  
16 they came to his house to arrest him early that  
17 morning.

18 Q. And did that information affect your  
19 opinions at all in this case?

20 A. I mean, I considered it like I consider  
21 all the information that's available to me. He also  
22 exhibited significant -- excuse me. He also exhibited  
23 compliance with authority figures. After he got to  
24 the interrogation at the police station, he willingly

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1 as far as I can tell answered the police's questions  
2 and willingly confessed to the purse-snatching and the  
3 break-in but not to the sexual assaults.

4 Q. And then on Page 11 of your report -- and  
5 I apologize if you have already answered this. I must  
6 have missed it if you did. On Page 11, you made  
7 mention of a pre-trial summary document. Can you tell  
8 me what that is?

9 A. Can you direct me to --

10 Q. Yeah. It's on Page 11, the first full  
11 paragraph before the Section C, Psychopathology  
12 section, about a third of the way down.

13 A. Oh, yes. Thank you. I think that was  
14 the intake. I would have to look at the actual  
15 documents again and, again, there were many. But in  
16 the intake document at I guess the correctional  
17 facility maybe, he provided background information  
18 about his academic history and family history, so it  
19 could have been that.

20 Q. And you think it's a document that he  
21 prepared himself?

22 A. Let's see. I don't recall specifically.  
23 I'm sorry.

24 Q. And starting on Page 11, you made

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1 reference to Mr. Perrot's apparent alcohol and drug  
2 abuse when he was a youth. Do you recall that?

3 A. Yes.

4 Q. And it's fair to say that alcohol and  
5 drug abuse could cause a youth or anyone else to do  
6 things that they wouldn't ordinarily do, would you  
7 agree with that?

8 A. Yes.

9 Q. So, someone who, if they were completely  
10 sober, may not rape someone but someone who is under  
11 the influence of alcohol or drugs may rape someone,  
12 would you agree with that statement?

13 A. That would be an oversimplification that  
14 I don't think my expertise can speak to in  
15 developmental psychology.

16 Q. Do you feel that you have the  
17 qualifications to state whether someone under the  
18 influence of alcohol and/or drugs would be susceptible  
19 to making a false confession?

20 A. So, my expertise in police interrogations  
21 and false confessions includes understanding the  
22 literature that demonstrates that intoxication has  
23 been empirically related to constructs that contribute  
24 to false confessions like suggestibility, like Miranda

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1 comprehension problems. So, my expertise is in the  
2 literature.

3 Q. Have you seen any literature that  
4 discusses the propensity of someone whether they're a  
5 youth or even an adult to commit crimes because  
6 they're under the influence of alcohol or drugs?

7 A. I mean, there's certainly a literature  
8 on, yes, on the relation between substance use and  
9 delinquency or criminal activity.

10 Q. So, you have reviewed that type of  
11 research?

12 A. I mean, in general, yes, that literature  
13 exists whether it's, you know, documentation of  
14 someone's intoxication at the time of arrest or  
15 whether it's research methods using self report,  
16 asking people if they were using drugs or alcohol and  
17 committed a crime. It's a very large literature.

18 Q. Do you have expertise in that area?

19 A. Only to the extent that delinquency and  
20 criminal activity relates to police interrogations  
21 which is my primary of expertise.

22 Q. Now, with respect to Mr. Perrot's  
23 childhood, his residential history, on Page 13, you  
24 noted that he had a tremendous degree of residential

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1 instability and family stress. What were you  
2 referring to there?

3 A. So, based on the DYS records I reviewed,  
4 he had multiple placements in foster care. He had  
5 periods of incarceration and was in and out of the  
6 custody of his mother during his childhood and  
7 adolescence.

8 Q. Okay. And were you including the fact  
9 that apparently his mother moved to a different  
10 residence and he stayed with his sister?

11 A. I was aware of that, yes.

12 Q. Okay. And were you aware that it was  
13 actually Mr. Perrot's choice to stay with his sister  
14 and not move with his mother?

15 A. Yes.

16 Q. In other words, his mother didn't abandon  
17 him, she would have taken him if he wanted to go?

18 A. That sounds familiar, yes.

19 Q. And just going back just briefly, with  
20 regard to the research that you're aware of that  
21 discusses how someone may be impaired while under the  
22 influence of alcohol and drugs, from what you're aware  
23 of, does the research demonstrate that someone so  
24 impaired would risk not comprehending that what they

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1 were doing is wrong?

2 A. That is a different subspecialty of  
3 psychology that is not my area of expertise.

4 Q. And on Page 20 of your report in the  
5 second full paragraph, you stated, There is some  
6 evidence to suggest that police ignored physical  
7 evidence that was inconsistent with their narrative  
8 that Mr. Perrot committed the crimes. Can you tell me  
9 what the some evidence is that you were referring to?

10 A. I believe that was in reference to the  
11 issue around the location of the gloves and the owner  
12 of the gloves that were referenced in the second  
13 confession statement.

14 ATTORNEY LYNCH: Okay. That's all I  
15 have. Thank you, Dr. Cleary.

16 THE WITNESS: Thank you.

17 ATTORNEY DESOUSA: Anyone else?

18 ATTORNEY JOYCE: Yeah. I have a few  
19 if I may.

20 THE WITNESS: May I ask -- I don't  
21 mean to interrupt -- if I can get a snack?

22 ATTORNEY DESOUSA: Of course. So,  
23 do you want like twenty minutes? Austin, how  
24 long do you have do you think?



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1 ATTORNEY JOYCE: I'm going to guess  
2 maybe twenty minutes, half hour. I don't  
3 anticipate long, no.

4 ATTORNEY DESOUSA: So, is just a  
5 snack enough, doctor, or do you want to get  
6 something more substantial? We don't want  
7 to --

8 THE WITNESS: I can eat in ten,  
9 fifteen minutes if that's okay.

10 ATTORNEY DESOUSA: That's perfect.  
11 Thank you.

12 (A recess was taken)

13 ATTORNEY JOYCE: Back on the record.

14  
15 EXAMINATION BY ATTORNEY JOYCE:

16 Q. Good afternoon, Dr. Cleary. I'm Austin  
17 Joyce representing one of the defendants here. I'm  
18 looking at your resum and I wanted to ask you a few  
19 questions about some of your education. I gather that  
20 in 2004 that BA was your undergrad degree at UVA?

21 A. Yes.

22 Q. I'm sorry?

23 A. Yes. That's correct. Excuse me.

24 Q. Sorry. Maybe I got to turn my volume up.

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1 Okay. All right. And then from there, did you go  
2 directly to Georgetown?

3 A. I worked for one year before going to  
4 graduate school.

5 Q. And what was that employment?

6 A. I worked as a lab manager for a faculty  
7 member running her research lab.

8 Q. Faculty of which school?

9 A. Georgetown University.

10 Q. Okay. And, so, you started your --  
11 that's Master's in Public Administration, Public  
12 Policy? I'm sorry.

13 A. Yes. It was actually a dual degree  
14 program. So, students pursue the Master of Public  
15 Policy and the PhD in Developmental Psychology  
16 simultaneously.

17 Q. And how are those two disciplines  
18 related?

19 A. That's a great question.

20 Q. I thought so.

21 A. I apologize. That was reflexive. So,  
22 all of the work that I do as a developmental  
23 psychologist and the work of the people in my program  
24 who pursue different avenues of developmental

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1 psychology all have policy implications. So, the idea  
2 is to translate developmental science to policy-making  
3 to help policy-makers make more empirically informed  
4 decisions.

5 Q. Okay. I think I understand that. All  
6 right. And it was the same program but you got the  
7 two degrees out of the same program, is that correct?

8 A. Well, not exactly. They are two distinct  
9 programs and you pursue them simultaneously through a  
10 special admissions process.

11 Q. Okay. So, while you were pursuing your  
12 MPP, you were also pursuing your PhD?

13 A. Exactly.

14 Q. But how do the programs overlap or how  
15 did they back then?

16 A. Sure. So, some of the coursework that I  
17 took in the policy school counted toward coursework  
18 requirements in the school of psychology. That was  
19 part of the purpose of the dual degree program.

20 Q. Okay. And were there other course  
21 requirements for the developmental psychology program  
22 that you took after you got your MPP?

23 A. So, all of the coursework occurred within  
24 the first two years but I took courses housed in and

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1 designed by the policy school at the same time I took  
2 courses housed in and designed by the psychology  
3 department.

4 Q. Okay. So, your courses in public policy  
5 were before you got your degree but not afterwards, is  
6 that right?

7 A. Correct.

8 Q. And from 2007 to 2010, you were working  
9 on the PhD part of the program, correct?

10 A. Exactly. That's correct.

11 Q. And then after there, you were it says  
12 assistant professor of psychology teaching. Why that  
13 distinction when you first went to Virginia  
14 Commonwealth?

15 A. Because in institutions of higher  
16 education, particularly research intensive ones like  
17 VCU, faculty can have different specializations. So,  
18 teaching faculty primarily have teaching  
19 responsibilities and little or no research  
20 responsibilities and they are typically not tenure  
21 track positions. They're contract positions. Whereas  
22 tenure track positions are research focussed and  
23 progress along a timeline toward tenure and promotion.

24 Q. All right. So, it says 2011 to 2012. Is

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1 that just the first year you were at Virginia  
2 Commonwealth?

3 A. That's correct.

4 Q. And what courses did you teach then?

5 A. I taught a lot of Statistics. I taught  
6 Developmental Psychology. I taught a course in  
7 Community Based Service Learning. What else did I  
8 teach? It was a long time ago.

9 Q. All right. And when you -- I gather in  
10 2012, you became a tenure track?

11 A. That's correct.

12 Q. And do you still teach?

13 A. Yes.

14 Q. And what courses do you teach?

15 A. I teach our Masters Capstone course in  
16 Criminal Justice Policy Analysis. I regularly teach  
17 our undergraduate Capstone course in Criminal Justice.  
18 For a long time, I taught the doctoral course in  
19 Research Design. I'm not teaching that currently.  
20 Those are my -- the ones in my regular rotation.

21 Q. And how often do you teach class at the  
22 school?

23 A. Typically, I'm on a two two load which  
24 means two courses in the fall and two courses in the

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1 spring.

2 Q. And how do you spend the rest of your  
3 time?

4 A. Conducting research and engaging in  
5 service activities.

6 Q. What does your research consist of?

7 A. Studies that help us better understand  
8 the nature of police interviewing and interrogation,  
9 particularly of young people.

10 Q. And how do you go about conducting those  
11 studies?

12 A. Well, it depends on the nature of the  
13 research question. I have done work with people who  
14 are detained in jail facilities asking them about  
15 their interrogation experiences. I have conducted  
16 studies with police investigators. I have conducted  
17 studies with parents of adolescents having to do with  
18 their knowledge and experience with juvenile  
19 interrogations. I have done experimental work. I  
20 have done theoretical work.

21 Q. Do those studies involve your  
22 interviewing people?

23 A. No. Not usually, no.

24 Q. So, I -- how did you conduct the study

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1 then if you don't interview these various people?

2 A. Well, we have a lot of research methods  
3 available to us as social scientists and I have used a  
4 lot of them. So, for example, one of my early  
5 studies, systematically examining video recorded  
6 interrogations of youth, I have conducted self report  
7 studies, like surveys, where people report on their  
8 experiences and I have done that with both suspects  
9 and investigators. Sometimes we use a vignette design  
10 meaning we give case material or a hypothetical  
11 situation to respondents and systemically vary the  
12 type of information they receive and see if it affects  
13 their perceptions or attitudes. Those are just some  
14 of the research methods that social scientists use.

15 Q. Okay. Now, I see that in 2009, you  
16 became an associate professor. Is that because you  
17 achieved tenure and it's a promotion of sorts?

18 A. In 2019, yes.

19 Q. 2019. I'm sorry. I forget the 1. 2019?

20 A. That's correct.

21 Q. Okay. And how did -- did your job at  
22 Virginia Commonwealth University change at all when  
23 that happened?

24 A. I think technically slightly. The

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1 allocation of my time to research, teaching, and  
2 service, those percentages changed ever so slightly  
3 but the bulk of my activities still fall in those same  
4 three categories as any faculty member.

5 Q. Okay. And your resum also indicates at  
6 the same time, you became part of the affiliate  
7 faculty at a center associated with Virginia  
8 Commonwealth, right?

9 A. Correct.

10 Q. And what is that center?

11 A. The Center for Cultural Experiences in  
12 Prevention is basically just a group of faculty with a  
13 shared interest and an expertise in promoting the  
14 wellbeing of typically disadvantaged or  
15 underrepresented groups. So, it's a cadre of  
16 psychologists and I'm one of -- maybe a social work  
17 professor. I'm one of the few outside the psychology  
18 department. We mentor students together. We share  
19 resources. We share technical expertise to support  
20 one another in our work.

21 Q. And how many are on the faculty at the  
22 center?

23 A. Maybe about twelve to fifteen folks.

24 Q. All right. They are all associated with



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1 Virginia Commonwealth University?

2 A. Yes.

3 Q. Now, you indicate that you're under  
4 contract for this book, Interviewing youth, a working  
5 title. Have you finished it?

6 A. No.

7 Q. Do you know when you might?

8 A. Well, it's due to the publisher in  
9 November, so I certainly hope before then.

10 Q. Okay. So, it's still a work in progress  
11 then?

12 A. Correct. Yes.

13 Q. And the publisher is Oxford University  
14 Press?

15 A. Yes.

16 Q. You indicated in your report that you  
17 have done lectures with -- I'm looking at Page 2 of  
18 your report -- where you have given lectures to police  
19 departments and attorney organizations at local,  
20 state, and federal levels. Which police departments  
21 have you lectured for?

22 A. Richmond Police Department, my local PD.  
23 That's the -- I think that's the only local level  
24 organization.

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1 Q. Okay. How about at the state level?

2 A. So, this state level, sure, refers to  
3 attorney organizations. So, I have spoken at like  
4 public defender conferences in Mississippi and Ohio  
5 maybe. I can't remember all off the top of my head.  
6 Some have been in person, some virtual. I think maybe  
7 four different -- Virginia's defense organization, I  
8 spoke at their statewide conference one year.

9 Q. And how about federal level lectures, how  
10 many of those have you done?

11 A. Sure. A few talks at the FBI, at the  
12 national academy, the training academy, for police  
13 officials.

14 Q. And when was that?

15 A. Pardon?

16 Q. When were those?

17 A. I don't have my CV in front of me. I  
18 believe they're listed on my CV if you have that.  
19 Probably about ten years ago maybe.

20 Q. So, would those have been just after you  
21 started at Virginia Commonwealth as a tenure track?

22 A. Around that same time. The individual --  
23 the chief criminologist that I worked with there I had  
24 been working with since graduate school, so I might

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1 have even guest lectured before VCU.

2 Q. Now, I want to ask you some questions  
3 about Page 5 of your report.

4 A. Sure.

5 Q. And the risk factors that you enumerate  
6 here. In terms of evaluating these risk factors, do  
7 you look at whether they're present or the degree to  
8 which they're present?

9 A. Both.

10 Q. Both? Okay. So, is there some sort of  
11 rating scale for each risk factor that you employ?

12 A. No. No such rating scale exists.

13 Q. Okay. So, it's more than just  
14 determining that these risk factors are present when  
15 you try to evaluate them, right?

16 A. Yes.

17 Q. And how do you go about evaluating each  
18 risk factor?

19 A. I'm sorry. Could you repeat that?

20 Q. Sure. How do you go about evaluating  
21 each risk factor?

22 A. Oh, I see. Well, I evaluate the  
23 discovery that's provided to me. If there's an  
24 electronic recording, I begin there. And if there's

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1 an associated transcript, I begin there. If not, I  
2 review and reconstruct all of the accounts of the  
3 interrogation as documented in the case record, like  
4 suppression hearing transcript or if it's discussed at  
5 trial. In terms -- and that's to get the best  
6 understanding I can of how the interrogation was  
7 conducted, its length, its location, the techniques  
8 that officers used, however much information is  
9 available about that. In terms of dispositional risk  
10 factors, I will usually ask for additional  
11 documentation that may speak to those dispositional  
12 risk factors, like school or academic records, like  
13 forensic or other psychological evaluations,  
14 information that is available and documented that  
15 would attest to the potential presence of one of these  
16 risk factors.

17 Q. So, in this particular case -- or well,  
18 let me ask this generally I guess. In terms of  
19 looking at what you have listed for personal and  
20 dispositional risk factors, cognitive impairments, so  
21 I'm trying to understand how you determine the  
22 severity of that risk from case to case and compare  
23 them?

24 A. Sure. Using cognitive impairments as an

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1 example, there might be information available in a  
2 person's academic record in which they were given an  
3 IQ test by, say, a school psychologist and so that  
4 information would enable me to understand if they had  
5 a psychiatric or an intellectual disability diagnosis  
6 or not. If they did, what was the diagnosis, you  
7 know. An IQ of 95 is different from an IQ of 75 even  
8 in terms of the degree of impairment that may be  
9 relevant to interrogation.

10 Q. All right. So, if I understand you then,  
11 in terms of the risk regarding cognitive impairments,  
12 the more normal the educational level, the less the  
13 risk, is that what you're saying?

14 A. Not specifically. So, let's take  
15 intellectual disability as a specific example or IQ,  
16 right? IQ has been demonstrated to relate to Miranda  
17 comprehension to kind of subsequent issues related to  
18 the interrogation. And, so, if there is indication --  
19 if there's information about the person's low IQ, then  
20 that is relevant for I think the court to understand  
21 the science around how IQ relates to Miranda  
22 comprehension or the ability to withstand  
23 interrogative pressures and that's the science that I  
24 share in my reports.

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1 Q. All right. If I understand you, you're  
2 saying that the lower the IQ, the higher the risk  
3 factor is or the greater the risk factor?

4 A. I don't quantify them in that relative  
5 sense. I provide the information to judges or juries  
6 to make that determination themselves because I'm not  
7 opining directly about a confession's true or false  
8 nature.

9 Q. Right. But if I understand you, you're  
10 opining as to the likelihood based on these risks that  
11 the confession was false, right?

12 A. I'm saying that there's information from  
13 social science research about, for example, the  
14 relation between IQ and intellectual disability and  
15 Miranda comprehension just as one example that the  
16 courts in my view should consider when they are making  
17 reliability determinations.

18 Q. Now, you talked about transient risk  
19 factors and you look at -- you have specified acute  
20 intoxication. And what do you consider acute  
21 intoxication?

22 A. Intoxication at the time of the  
23 interrogation as opposed to a more, a broader  
24 substance abuse disorder.

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1 Q. All right. But you use acute  
2 intoxication, so --

3 A. Right.

4 Q. -- what does that mean?

5 A. Intoxication at the time of the  
6 interrogation.

7 Q. Okay. So, is there a sliding scale with  
8 regard to that, somebody more drunk than some other  
9 person or just the fact that they're intoxicated?

10 A. Sure. The research that's available has  
11 compared intoxication to -- intoxicated individuals to  
12 sober individuals on a number of outcome measures.  
13 I'm not aware off the top of my head of specific  
14 information looking at degrees of intoxication or how  
15 that would be quantified.

16 Q. All right. So, if I understand you,  
17 you're saying the blood alcohol level, if we're  
18 talking about alcohol, doesn't matter, just the fact  
19 that there is alcohol present, that's a risk factor?

20 A. I understand your question. I'm saying  
21 we don't know if it matters.

22 Q. Okay. How about drug intoxication as  
23 opposed to alcohol intoxication, does the presence of  
24 some drug in the system affect your assessment in the

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1 same way that alcohol does?

2 A. In theory, yes. Depending on the types  
3 of drugs, of course there are many, but to the extent  
4 to which drug intoxication affects memory, information  
5 processing, information recall, the, you know, ability  
6 to weigh the past versus the present versus the future  
7 outcome of events, drug intoxication can impair those  
8 abilities, those cognitive and socio-emotional  
9 abilities, and that's relevant to interrogation  
10 decision-making.

11 Q. Does the experience that the suspect or  
12 person being questioned have with the law enforcement  
13 process enter into your evaluation of any risk  
14 factors?

15 A. Potentially. So, if I can direct you to  
16 page -- give me just one moment, please. Okay. So, I  
17 provide an example on Page 10 in the Miranda section.  
18 And this is a distinction that I'm often asked about  
19 and it's important to understand the distinction  
20 between research that exists on system experience as  
21 it relates to Miranda comprehension and research on  
22 system experience as it relates to coercion. I do not  
23 know of any research speaking to the latter but to the  
24 former, and this is captured in like the last complete



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1 sentence on Page 10, some studies that have asked  
2 folks whether they have previous history with police  
3 are actually less capable in terms of language  
4 processing and information, have lower literacy levels  
5 for example, than young people who have had no prior  
6 contact with the legal system. So, it's relevant in  
7 some sense but maybe not others.

8 Q. Okay. And in what sense would it be  
9 relevant?

10 A. Miranda comprehension is one example.

11 Q. But in what way? What way is it relevant  
12 to understanding Miranda?

13 A. So, I'll -- I mean, just so I don't  
14 misspeak, I'll quote my own report directly.  
15 Legal-system involved youth have shown deficits in  
16 language processing and comprehension, reading levels,  
17 vocabulary and grammar, and listening comprehension  
18 abilities compared to non-offending youth.

19 Q. Okay. So, I'm having trouble  
20 understanding how that presents a problem to  
21 understand the Miranda warnings. You have the right  
22 to remain silent, what about that is confusing?

23 A. So, there are specific clinical tests  
24 that have been designed to test, to empirically assess

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1 knowing this intelligentness, forgive my butchering of  
2 the language, but the degree to which individuals  
3 understand the words and vocabulary used in common  
4 Miranda warnings and the degree to which individuals  
5 can apply that knowledge if they have it to their own  
6 legal circumstances. And research shows that  
7 system-involved young people at least actually perform  
8 poorer on those measures compared to normative youth  
9 or what we call community sample, kids in general who  
10 don't necessarily have prior legal experience.

11 Q. Does your assessment of any of the -- or  
12 the presence of any of these risk factors involve  
13 credibility determinations by you?

14 A. No.

15 ATTORNEY JOYCE: Thank you, doctor.

16 That's all I have.

17 THE WITNESS: Thank you.

18 ATTORNEY DESOUSA: Anybody else?

19 ATTORNEY JOYCE: I guess not, Lisa.

20 ATTORNEY DESOUSA: Okay. Thank you,  
21 doctor. Thank you, Carla. We will see you all  
22 tomorrow.

23 (Witness excused)  
24

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UNITED STATES DISTRICT  
COURT DISTRICT OF  
MASSACHUSETTS

I, NICOLE A. STEWART, a Notary Public in and for the Commonwealth of Massachusetts, do certify that pursuant to notice, there came before me on February 5, 2024, VIA ZOOM PLATFORM, the following named person, to wit: HAYLEY CLEARY, MPP, PhD, who was by me duly sworn to testify to the truth and nothing but the truth as to her knowledge touching and concerning the matters in controversy in this cause; that she was thereupon examined upon her oath and said examination reduced to writing by me; and that the deposition is a true record of the testimony given by the witness, to the best of my knowledge and ability.

I further certify that I am not a relative or employee of counsel or attorney for any of the parties, or a relative or employee of such parties, nor am I financially interested in the outcome of the action.

WITNESS MY HAND, this 21st day of February, 2024.



Nicole A. Stewart

My Commission expires: May 12, 2028

Date

HAYLEY CLEARY, MPP, PhD

PAGE	LINE	CHANGE	REASON
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Case Name: PERROT V. THE CITY OF SPRINGFIELD, et. al.

Date Taken: February 5, 2024

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